

### REMARKS

Applicants respectfully request entry of the remarks submitted herein. Claims 14, 16-18, and 20-37 are currently pending. Reconsideration of the pending application is respectfully requested.

#### The 35 U.S.C. §103 Rejections

Claims 14, 16-18, and 20-37 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Beauregard et al. (US 6,458,401). Specifically, the Examiner alleged that Beauregard teaches all of the limitations of the present claims. This rejection is respectfully traversed.

Beauregard teaches a process for manufacturing a powder containing crystalline particles of maltitol, where the method includes continuously mixing maltitol syrup and maltitol seeds. The mixing is effected by simultaneously dispersing maltitol syrup and maltitol seeds into an open rotating receptacle (column 2, lines 35-45). Beauregard further describes maturation/crystallization steps in which maltitol granules are transferred from the open rotating receptacle to a rotating cylinder for ripening of crystalline maltitol (column 3, lines 7-12; column 4, lines 62-64), and further describes drying steps in which matured granules are dried in a fluidized bed (column 4, lines 65-67; Example 1). Thus, Beauregard teaches using separate devices (i.e., the open rotating receptacle, the ripening device, and the fluidized bed for drying) for the different steps of the methods of Beauregard. On the other hand, pending independent claim 14 requires that the claimed process (e.g., turbulating to provide a coated maltitol product, drying the coated maltitol product, and reducing the particle size of the granulated maltitol product) occur in a fluid bed. Nowhere does Beauregard suggest that all of these steps could be performed in a fluid bed.

In addition, Beauregard adds the maltitol syrup to an open rotating receptacle having maltitol seeds. The present claims, however, use maltitol powder as a starting material and require that the maltitol powder be turbulated with the maltitol syrup. Those of skill in the art would realize that maltitol powder cannot be turbulated in an open receptacle. Furthermore, in addition to producing a coated maltitol product from the starting materials (e.g., maltitol powder

and maltitol syrup), the turbulating step in the pending claims also results in the coated maltitol product being dried. On the other hand, Beauregard does not teach or suggest simultaneous disbursement and drying of the maltitol using turbulating gas. Thus, a person having ordinary skill in the art would not have been prompted by Beauregard to use maltitol powder as a starting material or to use turbulating gas for both disbursal and drying purposes.

Applicants further submit that there is no teaching or suggestion that the processes of Beauregard yield solidified maltitol, whereas the present claims are specifically directed toward preparing solidified maltitol. The present specification teaches that the melting temperature of maltitol is 150°C, and the claims require that the second temperature be selected such that the maltitol remains solid during turbulation (i.e., below 150°C). See specification at page 5, lines 10-20. Beauregard has no such temperature requirements. Beauregard states only that the maltitol syrup be brought to a temperature of at least or about 80°C for mixing with maltitol-containing seeds. (column 2, lines 56-57, and column 3, lines 20-21). Beauregard further teaches that “[n]o special efforts are undertaken to control the temperature of the granulator.” (column 4, lines 56-57). Thus, there is no indication in Beauregard that the process results in solidified maltitol rather than crystalline maltitol.

For the reasons set forth herein, the cited reference is insufficient to establish a *prima facie* case of obviousness. Obviousness under 35 U.S.C. §103 requires consideration of the factors set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), including an analysis of the scope and content of the prior art and the differences between the claimed subject matter and the prior art. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). In addition, a claim “composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art.” *Id.* at 401. The Courts have clearly indicated that there must be some teaching, suggestion, or incentive to make the claimed invention beyond the mere disclosure of individual components of the claimed invention, either separately or in other combinations. *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931 (Fed. Cir. 1990). In the present case, a person of ordinary skill in the art would not have been prompted to modify the apparatus as well as the actual process of Beauregard or to maintain solidified maltitol as required by the pending claims. As such, the present claims are patentable over the cited reference.

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Serial No. : 10/576,748  
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Page : 7 of 7

Attorney's Docket No.: 19790-0008US1 / CER03-0015

Accordingly, Applicants respectfully request that the rejection of claims 14, 16-18, and 20-37 under 35 U.S.C. §103 be withdrawn.

CONCLUSION

Applicants respectfully request allowance of claims 14, 16-18, and 20-37. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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